

REPORT OF THE EXECUTIVE OFFICER
State Allocation Board Meeting, April 26, 2006

RE-DESIGNATION OF ENERGY FUNDS

PURPOSE OF REPORT

To request:

1. Adoption of amendments to the School Facility Program (SFP) Regulations in order to redesignate modernization energy grants to the modernization fund and to redesignate new construction funds to the new construction energy grant fund.
2. Authorization to file the proposed regulations on an emergency basis with the Office of Administrative Law (OAL).

DESCRIPTION

Assembly Bill 16 authorized the State Allocation Board (SAB) to set aside funds for new construction and modernization to provide supplemental funding to projects that meet energy efficiency criteria. Both Proposition 47 and 55 designated \$20 million, for a total of \$40 million, for this purpose. Through the regulation process it was determined that \$14.2 million would be assigned to new construction and \$5.8 million would be assigned to modernization from each bond.

As of the April 2006 SAB meeting, the modernization funds have been exhausted with the exception of \$5.9 million designated for supplemental energy funding remaining from Propositions 47 and 55. Since the SAB will be unable to fund any modernization projects after the April 2006 SAB meeting until a future bond is passed, the funds set aside for modernization energy purposes cannot be utilized; while there remains an ongoing need for new construction energy efficiency grants.

AUTHORITY

Regulation Section 1859.70.1 authorizes the Board to make a finding that if the funds are not needed for energy efficiency, the Board shall transfer the funds back to the original funding source(s).

STAFF COMMENTS

Originally, Staff prepared regulations that specified the amount to be designated to new construction and modernization based on a prorated basis. It was not anticipated that modernization funds would be exhausted prior to the full utilization of energy funds. However, Modernization funds will be exhausted at this board meeting and will leave an unused balance of \$5.9 million in modernization energy funds. New construction energy efficiency grants from Proposition 47 funds have been exhausted and over half of the Proposition 55 funds set aside for new construction have been apportioned. The Office of Public School Construction (OPSC) continues to receive applications for new construction projects which qualify for energy efficiency grants.

Staff recommends that the Board approve the attached emergency regulation amendment to remove the specific designation as to which fund the energy efficiency grants are to be paid. This change would increase the amount of existing new construction funding available to fund energy efficiency grants by \$5.9 million. This change would also make \$5.9 million available to fund projects on the existing Modernization "Unfunded List". This change is consistent with the original bond language that specified that a total of \$20 million of the funding created by Propositions 47 and 55 be made available to support energy efficiency grants.

The re-designation of the energy funding would be temporary. If and when additional bonds are approved by the voters, or funds are made available from rescinded or closed Proposition 47 or 55 projects and the Board is again able to fund modernization projects, the OPSC will ask the Board to re-designate funds for supplemental energy funding. Therefore, the ability to provide supplemental funding for energy efficient projects will continue uninterrupted. Staff has proposed an amendment to the regulations, per the Attachment, which will provide the SAB with flexibility in the distribution of energy funds.

RECOMMENDATIONS

1. Adopt the proposed emergency regulations as shown on the Attachment and begin the regulatory process.
2. Authorize the OPSC to file these emergency regulations with the OAL.
3. Upon approval of the emergency regulations, authorize the re-designation of \$100 thousand in modernization energy funds to the modernization fund from Proposition 47 funds, and the re-designation of \$5.8 million from the modernization energy fund to the modernization fund from Proposition 55 funds.
4. Upon approval of the emergency regulations, authorize the re-designation of \$100 thousand in new construction funds to the new construction energy fund from Proposition 47 funds, and the re-designation of \$5.8 million in new construction funds to the new construction energy fund from Proposition 55 funds.
5. Direct Staff to present a proposal to redesignate available Propositions 47 and 55 funds as supplemental energy funding, when additional modernization funding is made available to the program.

This Item was approved by the State Allocation Board on April 26, 2006.

ATTACHMENT

PROPOSED AMENDMENTS TO THE SCHOOL FACILITY PROGRAM REGULATIONS State Allocation Board, April 26, 2006

Amend Regulation Section 1859.2 as follows:

...

~~"CEC" means the California Energy Resources, Conservation and Development Commission.~~

...

"EnergyPro 3.1" means a computer program approved by the ~~CEC~~ State Energy Resources Conservation and Development Commission that calculates energy efficiency standards.

...

"Proposition 55" means the Kindergarten-University Public Education Facilities Bond Act of 2004.

...

Note: Authority cited: Sections 17070.35 and 17078.64, Education Code.

Reference: Sections 17009.5, 17017.6, 17017.7, 17021, 17047, 17050, 17051, 17070.15, 17070.51(a), 17070.71, 17070.77, 17071.10, 17071.25, 17071.30, 17071.33, 17071.35, 17071.40, 17071.75, 17071.76, 17072.10, 17072.12, 17072.18, 17072.33, 17073.25, 17074.10, 17074.30, 17074.32, 17075.10, 17075.15, 17077.40, 17077.42, 17077.45, 17078.52, 17078.56, 17280, and 56026, Education Code; Section 53311, Government Code; and Section 1771.5, Labor Code.

Amend Regulation Section 1859.70.1 as follows:

Section 1859.70.1. Available Funding for Energy Efficiency.

- (a) The Board shall set aside \$20 million pursuant to Education Code Section 100620(e) and \$20 million pursuant to Education Code Section 100820(e) for energy conservation adjustments authorized by Education Code Section 17077.35. The \$20 million from each set aside shall be transferred to the Energy Efficiency Account from the following sources:
 - (1) ~~\$14.2 million each from~~ The funds made available by Education Code Section 100620(a)(1) and 100820(a)(1), as appropriate.
 - (2) ~~\$5.8 million each from~~ The funds made available by Education Code Section 100620(a)(2) and 100820(a)(2), as appropriate.
- (b) The funds from each set aside in (a) shall be apportioned for either of the following:
 - (1) ~~\$14.2 million for a~~ New Construction Additional Grants for Energy Efficiency authorized by Section 1859.71.3.
 - (2) ~~\$5.8 million for a~~ Modernization Additional Grants for Energy Efficiency authorized by Section 1859.78.5.

If the Board makes a finding that the funds are not needed for the purposes of Sections 1859.71.3 or 1859.78.5, the Board shall transfer the funds back to the original funding source(s) identified in (a)(1) and (a)(2) above.

Note: Authority cited: Section 17070.35, Education Code.

Reference: Sections 17077.35, 100620 and 100820, Education Code.

Amend Regulation Section 1859.71.3 as follows:

Section 1859.71.3. New Construction Additional Grant for Energy Efficiency.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
 - (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.

- (2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the CEC State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 15 percent.
- (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
- (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC State Energy Resources Conservation and Development Commission.
- (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of the following:
 - (1) The New Construction Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 15 percent, or by one percent plus 0.04 percent for each 0.1 percent increment of increased energy efficiency up to 25 percent. The multiplier may not exceed five percent.
 - (2) The funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the new construction project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.

Amend Regulation Section 1859.78.5 as follows:

Section 1859.78.5. Modernization Additional Grant for Energy Efficiency.

- (a) In addition to any other funding authorized by these Regulations, the Board shall provide the grant amounts identified in (b) if all the following are met:
 - (1) The project includes energy efficiency components that conform to Subdivision (b) of Education Code Section 17077.35.
 - (2) The average energy efficiency score of all the buildings in the project, as determined by EnergyPro 3.1 or a similar computer program approved by the CEC State Energy Resources Conservation and Development Commission, exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations by at least 10 percent.
 - (3) The DSA has reviewed the proposed project and concurs with the percentage of energy efficiency that exceeds the nonresidential building energy efficiency standards specified in Part 6 of Title 24 of the California Code of Regulations.
 - (4) No portion of the project will be funded with funds made available from the Renewable Energy Program administered by the CEC State Energy Resources Conservation and Development Commission.
 - (5) There are funds remaining in the Energy Efficiency Fund as prescribed in Section 1859.70.1 to apportion some or the entire additional grant provided in (b).
- (b) An amount equal to the lesser of (b)(1) or (b)(2):
 - (1) The Modernization Grant multiplied by one percent if the percentage of energy efficiency as concurred by the DSA in (a)(3) is 10 percent, or by one percent plus 0.1 percent for each 0.1 percent increment of increased energy efficiency up to 14 percent. The multiplier may not exceed five percent.
 - (2) The remaining funds available in the Energy Efficiency Account set aside for this Section.

If there are no funds remaining in the Energy Efficiency Account or the funds remaining in the Energy Efficiency Account are insufficient to fully fund the additional grant authorized in (b)(1), the district may either withdraw its application and resubmit it when additional funds are available in the Energy Efficiency Account or continue with the modernization project and accept a full and final apportionment without the additional grant authorized by (b)(1) or the lesser apportionment authorized by (b)(2).

Note: Authority cited: Section 17070.35, Education Code.

Reference: Section 17077.35, Education Code.